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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,077	07/29/2003	Nancy Usiak	02-281US01 [209.0250001]	5948
54953 7590 06/08/2010 BROOKS, CAMERON & HUEBSCH, PLLC 1221 NICOLLET AVENUE SUITE 500 MINNEAPOLIS, MN 55403			EXAMINER MENDOZA, MICHAEL G	
			ART UNIT 3734	PAPER NUMBER
			MAIL DATE 06/08/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/629,077	<b>Applicant(s)</b> USIAK ET AL.	
	<b>Examiner</b> MICHAEL G. MENDOZA	<b>Art Unit</b> 3734	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 April 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23,24,26,29,30 and 52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23,24,26,29,30 and 52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 23, 24, 26, 29, 30, and 52 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 23, 24, 26, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. 6361637 in view of McDonald 5676697 in view of Armstrong et al. 6827731.

4. Martin et al. teaches, a rolled graft, comprising a generally tubular graft flattened against itself and rolled onto itself into cylindrical configuration wherein the graft includes a larger diameter main section (col. 14, line 48-col. 15, line 3), in combination with an expansion element disposed axially within the rolled graft (col. 15, lines 30-32), further comprising a temporary covering (9) surrounding and restraining the graft. It should be noted that Martin et al. fails to teach two smaller diameter sections at an axial end of the larger diameter section.

5. McDonald teaches a larger diameter main section and two smaller diameter sections at an axial end of the larger diameter section. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the graft

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of Martin et al. to have two smaller diameter sections in view of McDonald when using the graft in conjunction with a trunk vessel into two branch vessels (see abstract).

6. As to the limitation of wherein a first smaller diameter section is rolled within a second smaller diameter section, Martin et al. teaches flattening and rolling (col. 8, lines 24-44). McDonald teaches two smaller diameter sections. The combination teaches a bifurcated graft that would be flattened and rolled upon it self. When the bifurcated grafted is flattened with a smaller diameter section on the left and the other smaller diameter section on the right, the action of rolling the graft from left to right would result in a first smaller diameter section rolled within a second diameter section.

7. It should be noted that Martin/McDonald teaches the removal of a covering, but fails to teach a temporary covering comprising perforations along its length.

8. Armstrong et al. teaches a covering with common perforations (19) for removal of the covering. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the perforations of Armstrong et al. on the cover of Martin/McDonald to facilitate the removal of the cover.

9. Martin/McDonald/Armstrong wherein the graft is rolled onto an axial member (232).

10. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. in view of McDonald in view of Armstrong et al. as applied to claim 27 above, and further in view of Sgro 6063112.

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11. Martin/McDonald/Armstrong teaches the rolled graft of claim 27. It should be noted that Martin/McDonald/Armstrong fails to teach wherein the temporary covering is absorbed.

12. Sgro teaches a device with a common covering that is absorbable (col. 4, line 66-col. 5, line 9). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Martin/McDonald/Armstrong in view of Sgro to make the covering absorbable to remove the need of retrieving the covering after placement of the device.

13. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. in view of Ravenscroft 5755770.

14. Martin et al. teaches, a rolled graft, comprising a generally tubular graft flattened against itself and rolled onto itself into cylindrical configuration wherein the graft includes a larger diameter main section (col. 14, line 48-col. 15, line 3), whereby a length of the rolled graft is shortened during delivery inside a body lumen (col. 17, lines 35-37). It should be noted that Martin et al. fails to teach two smaller diameter sections at an axial end of the larger diameter section.

15. Ravenscroft teaches a larger diameter main section and two smaller diameter sections at an axial end of the larger diameter section. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the graft of Martin et al. to have two smaller diameter sections in view of Ravenscroft when using the graft in conjunction with a trunk vessel into two branch vessels (see figures).

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16. As to the limitation of wherein a first smaller diameter section is rolled within a second smaller diameter section, Martin et al. teaches flattening and rolling (col. 14, line 48-col. 15, line 3). Ravenscroft teaches two smaller diameter sections that can be inverted into the main graft (fig. 5). The combination teaches a bifurcated graft that would be flattened and rolled upon itself. When the bifurcated grafted is flattened with a smaller diameter sections inverted within the main graft, the action of rolling would result in the smaller diameter sections disposed within the main section.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL G. MENDOZA whose telephone number is (571)272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. G. M./  
Examiner, Art Unit 3734

/TODD E. MANAHAN/  
Supervisory Patent Examiner, Art Unit 3734